

19/00966/FUL

Mr Palminder Singh

PERTON

NON MAJOR

Cllr Philip Davis

The New Cottages Pattingham Road Perton

Demolition of pair of semi-detached dwellings with proposed new dwelling and garage

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 Nos 1 and 2 New Cottages comprise of a pair of semi-detached dwellings which front onto Pattingham Road. There is a detailed planning history relating to this site, with planning permission granted in 2015 for two storey extensions to both properties, and confirmation that prior approval is not required for single storey rear additions. Certificates of proposed use or development were also issued in 2015 for new garages to Nos 1 and 2 New Cottages.

1.1.2 In 2016 planning permission was granted to demolish the existing pair of semi-detached houses and erect a new dwelling and garage. The 2015 householder planning permissions, prior approval extensions and certificates were used as a fallback position to justify a larger dwelling in 2016. This permission and the 2015 approval for two storey side extensions to Nos 1 and 2 have now lapsed.

1.1.3 The Council has confirmed in September this year that prior approval is not required for single storey side/rear extensions to both properties. Planning permission has also recently been granted for extensions to Nos 1 and 2 which have effectively renewed the extensions approved in 2015.

The site lies in the West Midlands Green Belt.

1.2 Relevant planning history

20/00663/LHSHLD - Single storey rear extension no more than 6m deep and single storey side extension no more than half the width of the house - Prior approval not required (No 1 The New Cottages)

20/00670/LHSHLD - Single storey rear extension no more than 6m deep and single storey side extension no more than half the width of the house - Prior approval not required (No 2 The New Cottages)

20/00457/FUL - Two storey side extension - Approved (No 1 The New Cottages)

20/00454/FUL - Two storey side extension - Approved (No 2 The New Cottages)

16/00248/FUL - Demolition of pair of semi-detached dwellings with proposed new dwelling and garage - Approved.

15/00394/LUP - Certificate of proposed use/development for construction of new detached double garage - Certificate issued (No 1 The New Cottages)

15/00395/LUP - Certificate of proposed use/development for construction of new detached double garage - Certificate issued (No 2 The New Cottages)

15/00393/FUL - 2 storey side extension - Approved (No 2 The New Cottages)

15/00392/FUL - 2 storey side extension - Approved (No 1 The New Cottages)

15/00325/EXT - Single storey rear extensions (length beyond original rear wall 6m, maximum height 4m and 3m, eaves height 2.5m and 3m) - Planning permission not required (No 2 The New Cottages)

15/00322/EXT - Single storey rear extensions (length beyond original rear wall 6m, maximum height 4m and 3m, eaves height 2.5m and 3m) - Planning permission not required (No 1 The New Cottages)

2. APPLICATION DETAILS

2.1 Proposal

2.1.1 This application seeks to demolish the existing pair-of semi-detached cottages and erect a new dwelling and garage. The new property would be a two storey building, occupying a roughly 't-shaped footprint, with a dual gable and two storey bay windows facing Pattingham Road. The replacement building would occupy a similar position to the existing pair of semi-detached cottages which currently occupy the site, with the ground level lowered by 0.5m to accommodate a basement.

2.1.2 A new double garage is proposed to the rear of the dwelling, with the new property utilising the existing vehicular access off Pattingham Road.

2.1.3 The proposed new dwelling has not changed from that previously approved in 2016. However, as previously stated, the 2016 consent is no longer extant, hence the submission of this application.

3. POLICY CONTEXT

3.1 The site is within the Green Belt.

3.2 Adopted Core Strategy (CS)

Strategic Objective 1: To protect and maintain the Green Belt and Open Countryside in order to sustain the distinctive character of South Staffordshire.

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Core Policy 4: Promoting High Quality Design

Policy EQ1 Protecting, Enhancing and Expanding Natural Assets

Policy EQ4 Protecting and enhancing the character and appearance of the Landscape

Policy EQ9 Protecting Residential Amenity

Policy EQ11 Wider Design Considerations

Core Policy 6: Housing delivery

Policy H1: Achieving a Balanced Housing Market

Policy EV12 Parking Provision

Core Policy 11: Sustainable Transport

Appendix 5 Car parking standards

Appendix 6 Space About Dwellings

3.3 South Staffordshire Design Guide (SPD)

Green Belt and Open Countryside Supplementary Planning Guidance (GBOC SPD)

3.4 National Planning Policy Framework (the Framework)

Chapters 5, 12, 13, 14 and 15

4. CONSULTATION RESPONSES

No Councillor comments

Perton Parish Council (12.03.2020) - *No objections, subject to all construction traffic being parked off the highway.*

Staffs CC Highways (20.03.2020) - *No objections, subject to conditions regarding the reconstruction of the existing access, driveway and parking area being constructed in accordance with the submitted plans, retention of garage for the parking of vehicles, and no gates being located within 6m of the highway.*

Staffs CC Ecologist (29.07.2020) - *The measures detailed in the mitigation strategy should be adequate to secure a license. Conditions recommended regarding lighting, provision of bat and bird boxes, retention of trees and hedgerows, and recommendations of Preliminary Ecological Appraisal being followed.*

Site notice expired 06.04.2020

5. APPRAISAL

5.1 The application is referred to Planning Committee as it is contrary to Policy GB1.

5.2 Key Issues

- Whether the proposal is inappropriate development in the Green Belt;
- Openness of the Green Belt and the purposes of including land in the Green Belt;
- Case for very special circumstances
- Ecology;
- Residential and occupier amenity
- Highway safety/parking;
- Drainage

5.3 Whether inappropriate development in the Green Belt

5.3.1 Paragraph 145 of the National Planning Policy Framework (the Framework) confirms that local planning authorities should regard the construction of new buildings as inappropriate development in the Green Belt unless they fall under certain exceptions. Included in this list, and not therefore to be regarded as inappropriate development is

the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces

5.3.2 Policy GB1 of the CS closely follows paragraph 145 (d) regarding the replacement of existing buildings in the Green Belt and is therefore broadly consistent with the Framework in this regard. Additional guidance on replacement buildings is provided in the Council's Green Belt and Open Countryside Supplementary Planning Document (SPD). It defines 'materially larger' as an increase of between 10-20% in floor area over the existing building.

5.3.4 The site currently comprises of a pair of semi-detached cottages. Although the bathroom extensions to the rear of the properties are more than likely a later addition to the cottages, their condition and design indicate to me that they have been there a considerable amount of time. Thus, with no conflicting evidence before me, I consider that these additions form part of the original building.

5.3.5 In light of the above, I calculate that the existing building(s) occupies a floor area of around 164m² (89 m² ground floor and 75 m² at first floor level), with a ridge height of about 8m. The proposed replacement building and garage would occupy an overall floor area of approximately 291 m², with a ridge height of between 6.9m and 9m. Consequently, the floor area of the new dwelling would be around 77% larger than the building(s) it is replacing. This is clearly significantly greater than the percentage range referred in the SPD to establish if a proposal is 'materially larger'. As such, the replacement building would represent inappropriate development in the Green Belt, which paragraph 143 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'.

5.4 Openness

5.4.1 One of the essential characteristics of Green Belts are their openness. As set out in R. (on the application of Samuel Smith Old Brewery) v North Yorkshire CC [2020] UKSC 3 when assessing impact on openness it is possible to take into account both the spatial and visual impact of a development. The proposed new dwelling would be significantly wider and deeper than the existing pair of semi-detached cottages which currently occupy the site. Therefore, due to its considerable scale, bulk and massing, the new building would have a harmful spatial impact on the openness of the Green Belt. However, as it would replace existing built development, this harm would only be moderate.

5.4.2 Turning to the visual impact, the new building would be set back from Pattingham Road and only be around 1m taller than the existing cottages. As such, the visual impact of the replacement building on Pattingham Road and the surrounding open countryside would be limited.

5.4.3 Notwithstanding my conclusions on its visual impact, I have found that the new building would have a harmful, albeit moderate, spatial impact and therefore harm the openness of the Green Belt. That said, in assessing the overall impact of the development on openness, consideration will need to be given to the weight to be applied to the extant planning permissions, certificates of proposed use and prior approvals (i.e. the fallback position). This matter will be assessed in detail in the 'other considerations' and 'conclusions sections of this report.

5.4.4 The proposed dwelling would occupy a similar footprint to the existing pair of semi-detached cottages and be contained within the existing enclosed residential curtilages. As such, it would not conflict with one of the five main purposes of including land in the Green Belt, to assist in safeguarding the countryside from encroachment.

5.5 Case for Very Special Circumstances

5.5.1 The applicant has submitted a Design and Access Statement which set out the 'other considerations' that they consider represent the very special circumstances required to justify inappropriate development in the Green Belt. This focuses on the extant planning permissions, prior approvals and certificates of proposed use for various extensions and detached garages to the existing cottages (i.e. 'the fallback position'). The 2016 planning application for a replacement dwelling which is identical to that now proposed was approved on this basis. Following the renewal of the planning permissions/prior approvals for extensions to the cottages there is also no change to the fallback position previously accepted in 2016.

5.5.2 The High Court ruling *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 etc) confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were the basic principle that for a prospect to be a 'real prospect', it does not have to be probable or likely: a possibility will suffice. It also concluded that there is no rule of law that, in every case, the 'real prospect' will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. The judge concluded that this will always be a matter for the decision-makers planning judgement in the particular circumstances of the case in hand.

5.5.3 The approval of the afore mentioned planning applications, prior approvals and certificates of proposed use in my view demonstrates a 'real prospect' that this fallback position would be implemented. Moreover, due to the slight reduction in the overall floor area of the new dwelling (291 m² compared with 296 m²), and lowering of the ground level, the proposal would not have a more harmful impact on the openness of the Green Belt than the fallback position. As such, I attach significant weight to the fallback position. This also effectively cancels out the harm I have identified to the openness of the Green Belt from the new building set out in the Green Belt section of this report.

5.6 Ecology

5.6.1 The Framework seeks to minimise impacts and provide net gains in biodiversity. This is echoed within Policy EQ1 (Protecting, Enhancing and Expanding Natural Assets) which states that permission will be granted for development that does not cause significant harm to sites or habitats of nature conservation.

5.6.2 A Preliminary Ecological Appraisal was submitted with the application which identified that precautionary working methods for hedgehogs were required and that the buildings and vegetation on site have high bird nesting potential. The PEA recommended that further surveys for bats and reptiles are undertaken.

5.6.3 Subsequent bat activity surveys have been carried out which have found evidence of small day roosts of common pipistrelle and brown long-eared bats. The County Ecologist (CE) is satisfied that, despite the presence of bats on site, the measures detailed in the mitigation strategy should be adequate to secure a licence by Natural England, and satisfy the requirements of the Conservation of Species Habitats Regulations 2017 for development affecting European Protected Species.

5.6.4 To ensure that there is no adverse impact on bat flight routes, conditions are recommended regarding any potential external lighting. Whilst a reptile survey has not been submitted, the CE is satisfied that the precautionary working method set out for hedgehogs should ensure that harm is avoided during site clearance.

5.6.5 The replacement of the existing buildings will result in the loss of nesting sites for birds which were noted during survey work. As species nesting on buildings do not use vegetation, a condition is suggested for nest boxes specific to these species. Subject to the imposition of the afore mentioned conditions, the proposal would not adversely impact on biodiversity and therefore accord with Policy EQ1 of the CS and the Framework in this respect.

5.7 Residential amenity

5.7.1 The proposed site has no immediate neighbours, with the closest residential property located on the southern side of Pattingham Road, over 80m away. Consequently, the proposal would not adversely impact on the amenities of nearby occupiers and therefore accord with Policy EQ9 of the CS and paragraph 127 of the Framework which, amongst other things, seeks to provide a high standard of amenity for existing and future users.

5.8. Highway safety/parking

5.8.1 The existing access off Pattingham Road would be used to serve the new dwelling. Adequate parking and turning space is shown on the proposed driveway/hardstanding area to serve a dwelling of this size, and enable vehicles to manoeuvre before exiting the site in a forward gear. Therefore, I do not consider it is either necessary or reasonable to impose the condition recommended by the highway authority requiring the garage to be retained for the parking of vehicles (i.e. 4 on-site parking spaces provided outside the garage). However, conditions are deemed necessary requiring the provision of the parking and turning areas, any physical alterations to the access and the location of any new gates, to ensure that safe and suitable access is provided to the site.

5.9 Flooding/Drainage

Paragraph 163 of the Framework requires new development to consider the risk of flooding to the site and elsewhere. The site is located within Flood Zone 1 and therefore considered to be at 'low risk' of flooding. A condition is recommended to ensure that appropriate foul and surface water drainage is provided. As such, the proposed development would be resilient to climate change and flooding in accordance with the Framework and CP3 of the CS.

6. CONCLUSIONS

6.1 The proposed dwelling would represent inappropriate development in the Green Belt and when compared with the existing buildings which currently stand on-site would harm openness. Paragraph 144 of the Framework confirms that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

6.2 On the other hand, there is a 'real prospect' that the extant planning permissions, prior approvals and certificates of proposed use (i.e. the fallback position) will be fully implemented which would have a similar impact on the openness of the Green Belt as the new building. I therefore attach significant weight to the fallback position. In addition, the development provides certain social and economic benefits, through the construction and subsequent occupation of the new dwelling of some positive weight. These considerations clearly outweigh the totality of harm that I have identified in this report. Consequently, very special circumstances have been demonstrated and planning permission should be APPROVED, subject to the following Condition(s):

7. RECOMMENDATION - APPROVE Subject to Conditions

Subject to the following condition(s):

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development shall be carried out in accordance with the approved drawings: 980/A/060 Rev A, and 980/A/061 Rev A received 16 September 2020
3. No works above damp-proof level shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Before any development takes place a scheme for the provision and implementation of foul drainage and surface water drainage works shall be submitted for the approval of the Local Planning Authority. The development shall not be occupied/brought into use until the approved scheme has been completed.
5. No development shall take place until details of all boundary treatment around and within the site shall be submitted to the Local Planning Authority for approval. The approved boundary treatment shall be designed and constructed so they do not seal to the ground continuously and stop the movement and dispersal of wildlife, notably hedgehogs. Boundaries must have 130mm by 130mm holes at ground level at least every 10m running length or should not seal to the ground at all between posts with a 120mm gap from fence base to ground. The approved boundary treatment shall be built/erected concurrently with the development and thereafter be retained in the approved form and position throughout the life of the development.
6. The development hereby permitted shall not be brought into use until the existing access to the site within the limits of the public highway has been reconstructed and completed.
7. Any gates shall be located a minimum of 6.0m rear of the carriageway boundary and shall open away from the highway.
8. The development hereby permitted shall not be brought into use until the access drive, parking and turning areas have been provided in accordance with the approved plans.

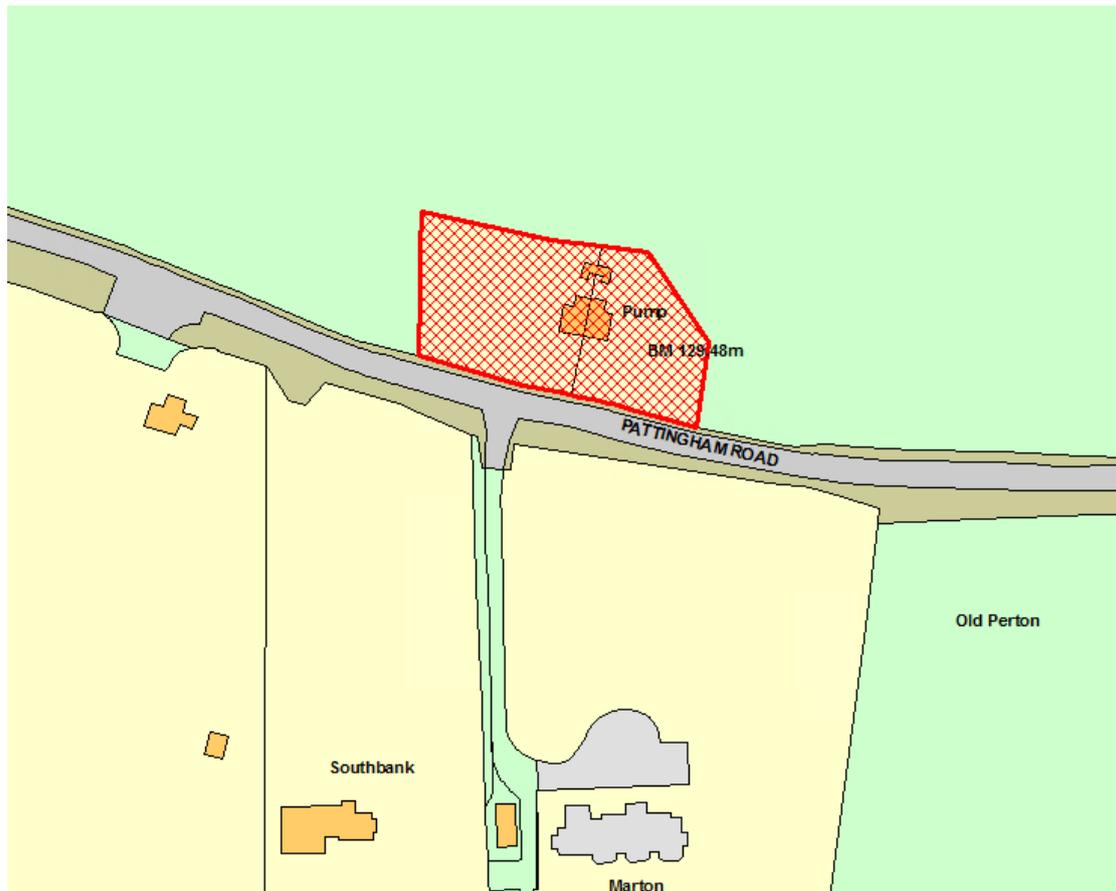
9. No development shall take place until a landscape scheme shall be submitted to the Local Planning Authority for approval. The approved scheme, which shall include the retention of existing boundary hedges and trees, shall be implemented concurrently with the development and completed within 12 months of the completion of the development. The Local Planning Authority shall be notified when the scheme has been completed. Any failures shall be replaced within the next available planting season and the scheme shall be maintained to the satisfaction of the Local Planning Authority.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2019, or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the dwelling(s) hereby approved without the prior approval of the Local Planning Authority:
 - a. Schedule 2, Part 1, Class A - enlargement, improvement or other alteration
 - b. Schedule 2, Part 1, Class B - addition or alteration to the roof
 - c. Schedule 2, Part 1, Class C - any other alteration to the roof
 - d. Schedule 2, Part 1, Class D - porches
 - e. Schedule 2, Part 1, Class E - garden buildings, enclosures, pool, oil or gas storage container
11. The mitigation measures detailed on pages 23-25 of the Activity Survey for Bats (Absolute Ecology, July 2020) shall be followed and bat boxes and ridge tiles must be installed. No breathable roof membrane shall be used in any area accessible to bats.
12. The precautionary working methods detailed in 5.34 of the Preliminary Ecological Appraisal (Absolute Ecology, February 2020) shall be followed during all site clearance work.
13. No development shall commence until details of any external lighting to be installed, including a lighting contour plan that demonstrates there will be minimal impact on receptor habitats for bats, has been submitted to and approved in writing by the local planning authority. Any new external lighting shall be installed and designed in accordance with Bat Conservation Trust / Institution of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. Development shall be carried out in accordance with the approved details.
14. No development shall commence until details of the type and location of biodiversity enhancement measures including 1 group of 3 number swift boxes and 1 number house sparrow terrace on or integrated into north- or east- facing brickwork of the new building shall be submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the building and retained as such thereafter.

Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.

3. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
4. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimize the risk of pollution, in accordance with Policy EQ7 of the adopted Core Strategy.
5. To safeguard the amenity of the area and ensure that the development does not have an adverse impact on biodiversity, in accordance with Policies, EQ1 and EQ11 of the adopted Core Strategy.
6. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
7. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
8. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
9. To safeguard the amenity of the area and ensure that the development does not have an adverse impact on biodiversity, in accordance with Policies, EQ1 and EQ11 of the adopted Core Strategy.
10. The site is within the Green Belt within which, in accordance with the planning policies in the adopted Core Strategy, there is a presumption against inappropriate development
11. To ensure that the development does not have an adverse impact on biodiversity, in accordance with Policy EQ1 of the Core Strategy and the National Planning Policy Framework.
12. To ensure that the development does not have an adverse impact on biodiversity, in accordance with Policy EQ1 of the Core Strategy and the National Planning Policy Framework.
13. To ensure that the development does not have an adverse impact on bats, in accordance with Policy EQ1 of the Core Strategy and the National Planning Policy Framework.
14. To ensure that the development does not have an adverse impact on biodiversity, in accordance with Policy EQ1 of the Core Strategy and the National Planning Policy Framework.
15. Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2019.
16. INFORMATIVE

The existing vehicular crossing to the site shall be reconstructed in accordance with the submitted drawing No. 980/A/060 Rev A. Please note that prior to the reconstruction works taking place you require a Permit to Dig. Please contact Staffordshire County Council, Network Management Unit, Staffordshire Place 1, Tipping Street, Stafford. ST16 2DH. (or email to nmu@staffordshire.gov.uk)



The New Cottages, Pattingham Road, Perton